

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In Re: John T. Huboky and Joann A. Huboky, Co-Debtor	Chapter: 13
Debtor	Bankruptcy No.: 19-13844-amc
	11 U.S.C. § 362

U.S. Bank Trust National Association, as Trustee of
Dwelling Series IV Trust

Movant

vs.

John T. Huboky and Joann A. Huboky, Co-Debtor

Debtor

and

Scott F. Waterman (Chapter 13), Esquire

Trustee

RESPONDENTS

MOVANT'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY

Movant, by its undersigned Attorney, Michael Clark, Esquire, hereby requests that the automatic stay and the co-debtor stay be vacated so that it may forthwith initiate foreclosure or resume foreclosure on its Mortgage.

1. Movant is U.S. Bank Trust National Association, as Trustee of Dwelling Series IV Trust, with an address of c/o Rushmore Loan Management Services, LLC, 15480 Laguna Canyon Road, Suite 100, Irvine, CA 92618.

2. Debtor is the owner(s), mortgagor(s), and last grantee(s) of record to the real property situated at 252 Virginia Avenue, Folsom, PA 19033, (hereinafter referred to as "mortgaged premises").

3. Movant is the owner and holder of a Mortgage, which Mortgage is presently a first priority lien against the mortgaged premises. A true and correct copy of the recorded Mortgage is attached hereto as Exhibit "A" and made a part hereof. A true and correct copy of the Promissory Note, executed by Debtor contemporaneously with the Mortgage, is attached hereto as Exhibit "B" and made a part hereof. A true and correct copy of the recorded Assignment of Mortgage is attached hereto as Exhibit "C" and made a part hereof. A true and correct copy of the Loan Modification is attached hereto as Exhibit "D" and made a part hereof.

4. Debtor is the Defendant(s) in a pending mortgage foreclosure proceeding venued in the Delaware County Court of Common Pleas (Docket No. CV-2019-0038525) as a result of chronic failure and/or refusal to make, tender, and/or deliver the monthly mortgage payments required pursuant to the terms of the Note and Mortgage.

5. The aforesaid mortgage foreclosure proceeding was stayed by the filing of this Chapter 13 case.

6. Debtor has not made, tendered, or delivered the April 1, 2022 through June 1, 2022

mortgage payments of \$1,486.45 for a total delinquency of \$4,459.35.

7. Movant is entitled to relief from the automatic stay as a result of the foregoing defaults and because:

- (a) adequate protection of the interest of Movant is lacking; and
- (b) Debtor has inconsequential or no equity in the mortgaged premises, upon information and belief.

8. There is just cause for Movant to be granted relief from the automatic stay, so as to permit Movant, its successors and/or assigns, to initiate or resume foreclosure on its Mortgage including, but not limited to, the sale of the mortgaged premises as a Sheriff's Sale.

WHEREFORE, Movant respectfully requests that this Court enter an Order vacating the automatic stay under 11 U.S.C. §362(d) and the co-debtor stay of 11 U.S.C. §1301 with respect to the mortgaged premises as to allow Movant, its successors and/or assigns, to immediately initiate or resume foreclosure on its Mortgage and allow the purchaser of the mortgaged premises at Sheriff's Sale (or purchaser's assignee) to take any/all legal or consensual action for enforcement of its right to possession of, or title to, the mortgaged premises.

Respectfully submitted,

/s/ Michael Clark
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Dated: June 22, 2022